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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,808	08/04/2000	Lawrence A. Denny	1950.006	2511
30589	7590	02/23/2004	EXAMINER	
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113			FRENEL, VANEL	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/632,808

Applicant(s)

DENNY, LAWRENCE A.

Examiner

Vanel Frenel

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*ML*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/12/03 has been entered.

### ***Notice to Applicant***

2. This communication is in response to the RCE filed 11/12/03. Claims 2-3 have been cancelled. Claims 1, 4-8 are pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al (6,202,923) in view of Kobylevsky et al (6,493,427).

(A) As per claim 1, Boyer discloses a method for verifying a renewal of a filled prescription provided by a member healthcare provider for a patient which can be filled through any one of a variety of member pharmacies with the member of healthcare

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provider being associated with a computer system having a web browser and each member pharmacy having a computer system with a web browser (Col.5, lines 8-67 to Col.6, line 59; Col.11, lines 1-67), comprising the steps of: providing a host system established as a website communicating with the Internet and available for login by member pharmacies and member healthcare providers, the host system including a plurality of records containing prescription information for a plurality of patients (Col.5, lines 8-67 to Col.6, line 59; Col.11, lines 1-67), a unique identification code generated by the host system identifying each prescription information, a unique healthcare provider code identifying the member healthcare provider, and a patient code uniquely identifying a patient, at least some of the records containing prescription information being indicative of filled prescriptions, the records containing prescription information being available to all member pharmacies and member healthcare providers (Col.5, lines 8-67 to Col.6, line 67; Col.11, lines 1-67);

providing electronically a prescription renewal screen by the host system to a pharmacy system associated with one of the member pharmacies, the prescription renewal screen being associated with a previously filled prescription (Col.5, lines 8-67 to Col.6, line 32);

receiving renewal request information from the pharmacy system, the renewal request information identifying a requested renewal of the previously filled prescription (Col.6, lines 5-67);

transmitting the renewal request information through the host system to a health care provider system associated with a member health care provider identified by the previously filled prescription stored on the host system (Col.6, lines 1-67).

Boyer does not explicitly disclose receiving, by the host system, an authorization from the health care provider system authorizing the requested renewal of the previously filled prescription; transmitting, by the host system, the authorization to the pharmacy system whereby the pharmacist associated with the pharmacy system is authorized to provide the requested renewal of the previously filled prescription to the patient.

However, these features are known in the art, as evidenced by Kobylevsky. In particular, Kobylevsky suggests receiving, by the host system, an authorization from the health care provider system authorizing the requested renewal of the filled prescription (Col.7, lines 10-67 to Col.8, line 34; Col.29, line 9-58); transmitting, by the host system, the authorization to the pharmacy system whereby the pharmacist associated with the pharmacy system is authorized to provide the renewal of the filled prescription to the patient (Col.7, lines 10-67 to Col.8, line 34 and Col.29, lines 9-17).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kobylevsky within the Boyer's system with the motivation of providing the prescription which is authorized to be refilled (See Kobylevsky, Col.2, lines 50-67).

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(B) As per claim 4, Kobylevsky discloses the method further comprising the step of outputting a report to a computer associated with a user other than a member healthcare provider or a member pharmacy (Col.29, lines 37-67 to Col.30, line 10).

(C) As per claim 5, Boyer discloses the method wherein the user is associated with a governmental entity (Col.11, lines 62-67).

(D) As per claim 6, Boyer discloses the method wherein the user is associated with an insurance company (Col.6, line 21-59).

(E) As per claim 7, Boyer discloses the method wherein the report is summarized by the name of the prescribing member healthcare provider (Col.5, lines 38-67 to Col.6, line 32).

(F) As per claim 8, Boyer discloses the method further comprising the step of outputting a patient prescription history, wherein the patient prescription history includes previous patient prescriptions associated by at least one of a patient code, a healthcare provider code, and a pharmacy code (Col.6, lines 48-67).

### ***Response to Arguments***

5. Applicant's arguments filed 11/12/03 regarding claim 1 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 11/12/03.

(A) At pages 5-10 of the 11/12/03 response, Applicant admitted and stated:

In response to all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 11/12/03 amendment, have been fully addressed by the Examiner as either being disclosed by or obvious in view of the collective teachings of Boyer and Kobylevsky based on the logic and sound scientific reasoning of one of ordinary skill in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action (paper number 7), and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches method and apparatus for integrated management of pharmaceutical and healthcare services (6,112,182), on-line

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pharmacy automated refill system (5,970,462), interactive medication ordering system (5,758,095) and automated method for filling rug prescriptions (5,883,370).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 703-305-4952. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

V.F  
V.F  
February 18, 2004

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600